I'm Sorry, this Meeting is Closed to the Public:

Why We Need Comprehensive Open Meetings Legislation in Canada

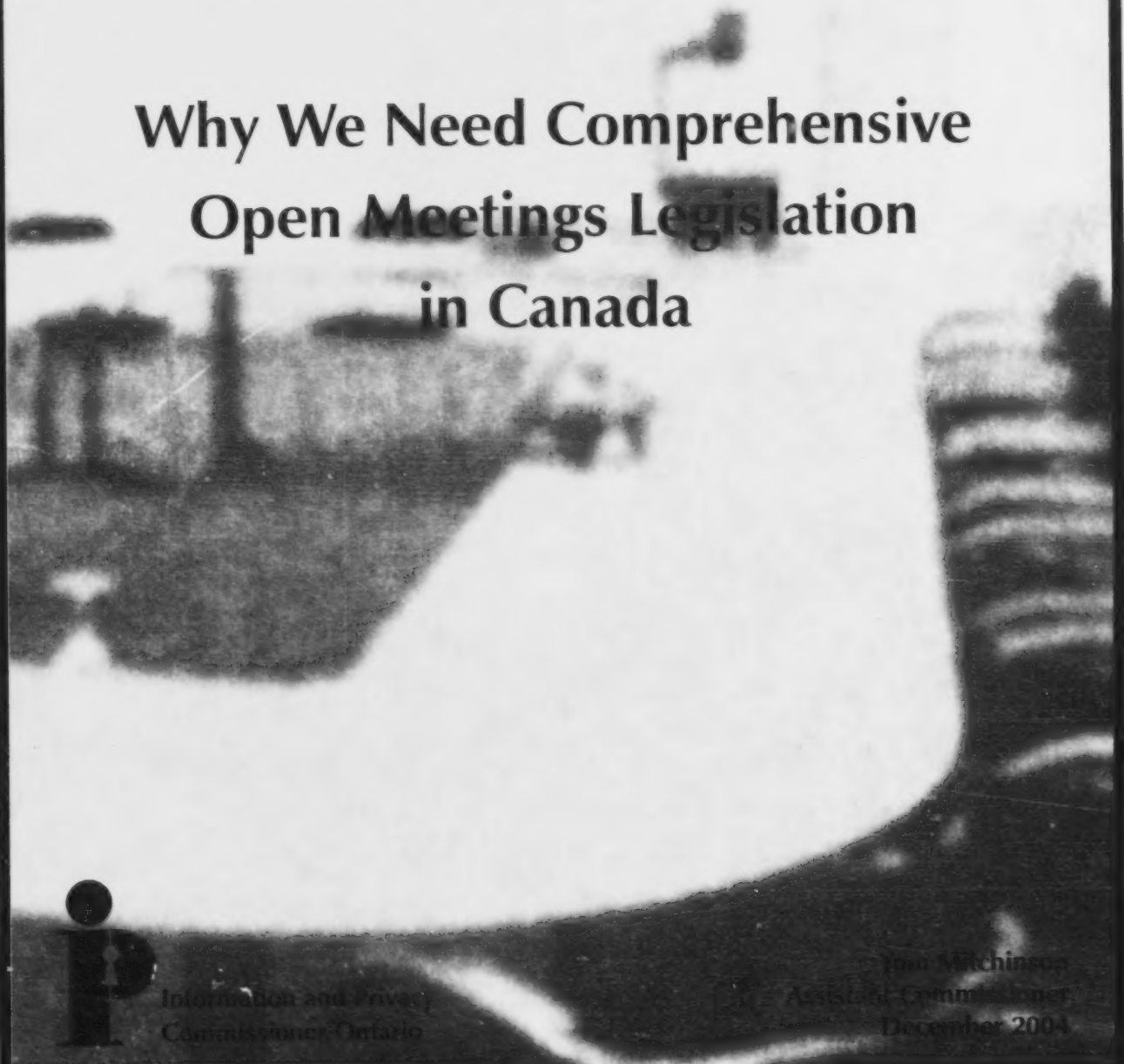

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Table of Contents

Introduction 1

The Value of Open Meetings Laws 2

Existing Open Meetings Requirements in Canada 3

The IPC's Proposal for a Municipal Open Meetings Law 8

Private Member's Bill 123, *Transparency in Public Matters Act, 2004* 18

Conclusion 20

Notes 21

Appendix 29

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Introduction

In Canada, the time is ripe for strengthening government accountability and transparency at the federal, provincial and municipal levels. In the past 18 months, a series of corruption scandals have hit the headlines in jurisdictions across the country. At the federal level, a judicial inquiry is examining allegations that government sponsorship funds were allocated to private-sector firms with connections to the ruling party.[1] In British Columbia, the police raided offices in the legislature as part of an investigation into allegations that two political aides traded inside government information on the privatization of B.C. Rail in the hopes of landing federal government jobs.[2] In the City of Toronto, a judicial inquiry is examining allegations of corruption in the awarding of a contract to a private company to supply computers to the city.[3]

As a result of these scandals, the public is putting increasing pressure on governments at all levels to be more open and transparent. In response, politicians in several jurisdictions have embarked on "democratic renewal" initiatives in order to restore and enhance public trust in government. In February 2004, Canadian Prime Minister Paul Martin released an *Action Plan for Democratic Reform* that promised to put ethics and integrity at the core of government.[4] In Ontario, newly elected Premier Dalton McGuinty appointed a Minister Responsible for Democratic Renewal and established a Democratic Renewal Secretariat that aims to make the province's democratic institutions more open and transparent.[5] At the municipal level, the City of Toronto recently appointed an Integrity Commissioner who will oversee compliance with the city's *Code of Conduct* and other bylaws, policies and regulations governing ethical conduct.[6]

However, these democratic renewal initiatives, particularly at the federal and provincial level, tend to focus on reforming the electoral system, toughening and enforcing ethics rules (e.g., conflict-of-interest guidelines), and enhancing public access to information. With the exception of Ontario's Democratic Renewal Secretariat, there has been little focus on reforming and strengthening the legal obligation of public bodies to conduct their business in public.

This paper will argue that comprehensive open meetings legislation should be a key element of democratic renewal in Canada. First, it will examine why open meetings laws are an essential component of open government in democratic societies. Second, it will outline existing open meetings requirements that currently exist in Canada at the federal, provincial and municipal levels of government. Third, the Information and Privacy Commissioner of Ontario's proposal for a municipal open meetings law will be examined. Finally, it will look at an open meetings bill that has been introduced in the Ontario legislature by a member of the governing Liberal party.

The Value of Open Meetings Laws

The principle of open government is a linchpin of democracy because it allows citizens to scrutinize the activities of elected officials and public servants to ensure that they are acting in the public interest. One pillar that supports open government is freedom of information legislation, which gives people the right to access government-held information. A second pillar is open meetings legislation, which ensures that public bodies conduct their meetings in public, not in secret.

Comprehensive open meetings laws are essential in a mature democracy. They facilitate citizen participation in the policy and decision-making process of government and enhance the ability of the public to evaluate the performance of the individuals whom it has elected to represent its interests. Such laws may also serve to build public confidence in government by assuring the public that elected and appointed officials are serious about keeping corruption and favouritism out of the decision-making process.[7]

In the United States, the federal government and all state governments have enacted comprehensive open meetings laws that guarantee, with limited exceptions, that the public can attend meetings of public bodies. Such laws usually require public bodies to give the public proper and adequate advance notice of each meeting, including a clear and concise agenda; provide citizens with the legal right to complain if open meetings rules have not been followed; and provide for remedies and penalties to redress violations. Although many U.S. states have had open meetings legislation in place for decades, such laws were significantly strengthened and enhanced after the Watergate scandal of the 1970s.

Existing Open Meetings Requirements in Canada

Federal Government

There is no comprehensive, stand-alone open meetings legislation at the federal level in Canada. At the parliamentary level, neither the *Parliament of Canada Act*[8] nor parliamentary standing orders or rules specifically require that the proceedings and debates of the House of Commons, the Senate or parliamentary committees be open to the public. Instead, such meetings appear to be open by default or as a matter of convention.

Parliamentary rules allow the House of Commons to exclude "strangers," who are defined as anyone who is not a member, including the public. This implies that proceedings are normally open to "strangers" (i.e., the public). The House of Commons' *Glossary of Parliamentary Procedure* notes that, "Strangers are admitted to the galleries but may be expelled if there is a disturbance or if the House so orders."[9] Similarly, the *Standing Orders of the House of Commons* allow the Sergeant-at-Arms to take into custody, "[a]ny stranger admitted into any part of the House or gallery who misconducts himself or herself, or does not withdraw when strangers are directed to withdraw."[10]

The *Rules of the Senate of Canada*[11] also permit the expulsion of strangers from the chamber:

> 20. (1) If at any sitting of the Senate, or in Committee of the Whole, a Senator shall take notice that strangers are present, the Speaker or the Chairman (as the case may be) shall forthwith put the question "That strangers be ordered to withdraw," without permitting any debate or amendment.
>
> (2) When the Speaker or the Chairman shall think fit, either of them may order the withdrawal of strangers from any part of the Senate, without a prior order of the Senate to that effect.
>
> (3) When the Senate orders the withdrawal of strangers, the galleries shall be cleared, but those authorized to enter the Senate Chamber and to be on the floor of the Senate while it is in session shall continue to have free access to the Senate.

The House of Commons *Précis of Procedure* notes that meetings of parliamentary committees are presumed to be open to the public but may be closed in certain instances:

> Committee meetings are usually open to the public and the media. If a committee wishes to deliberate in private, it may decide to hold *in camera* meetings. Such meetings are usually ordered when the committee is considering some administrative matter such as a proposed budget or the hiring of staff or when it is drafting a

report. As Beauchesne explains, "The purpose of *in camera* sittings is to allow Members to feel free to negotiate, discuss, deliberate and, sometimes, compromise without the glare of publicity, which might add to the difficulties of agreeing ...". Normally, Members of Parliament who are not members of a committee are permitted to attend *in camera* meetings unless the committee otherwise orders.[12]

At an organizational level, the Government of Canada is made up of 22 federal departments and numerous agencies, boards and commissions. In addition, the federal government has established at least 43 Crown corporations that operate at arm's length from government and are managed by a board of directors or other governing body. Although it is widely recognized that federal agencies, boards, commissions and Crown corporations must be accountable to taxpayers through Parliament, only a minority of such public bodies are statutorily required to open their meetings to the public, and usually only once a year and for a limited purpose.

For example, the *Canada Marine Act* requires that the annual meeting of a port authority be open to the public and held in any of the municipalities where the port is situated.[13] Moreover, a port authority must, at least 30 days before the annual meeting, have a notice published in a major newspaper published or distributed in the municipalities where the port is situated, setting out the time and location of the meeting and specifying that the port authority's financial statements are available to the public at its registered office.[14]

A number of federal organizations are required to convene a public meeting to consider their annual reports. For example, the Canada Pension Plan Investment Board is required to hold a public meeting once every two years in each participating province to discuss the board's most recent annual report and to give interested persons an opportunity to comment on it.[15] Similarly, the Sport Dispute Resolution Centre is required, within 60 days of delivering its annual report to the Minister, to convene a public meeting at a city in Canada selected by the Centre to consider the report and other matters relating to the Centre's activities during the current fiscal year.[16] Similar requirements are imposed on the Canadian Millennium Scholarship Foundation,[17] the Canadian Foundation for Innovation,[18] and the Canadian Foundation for Sustainable Development Technology.[19] There is no statutory requirement, however, that other meetings of such bodies that may take place during the year be open to the public.

At least one arm's length federal advisory body is required to hold most or all of its meetings in public. Under Part XV of the *Canada Shipping Act*, which deals with preventing and responding to marine pollution, the Commissioner of the Canadian Coast Guard must appoint advisory councils for at least six geographic areas. All regular meetings of these advisory councils must be conducted in public,[20] although the legislation does not define a "regular meeting," nor does it specify whether these councils must also provide the public with proper and advance notice of such meetings.

In short, very few federal agencies, boards, commissions or Crown corporations in Canada face open meetings requirements, even though most of these organizations were established with or operate with public funds. This is in marked contrast to the U.S, where the decision-making bodies of most federal agencies have been required to conduct open meetings, with limited exceptions, for almost 40 years. In 1976, the U.S. Congress passed *The Government in the Sunshine Act*,[21] which covers approximately 50 federal agencies headed by a "collegial body" of two or more individuals. It requires that meetings by the collegial bodies of these agencies "be open to public observation"[22] but also allows a body to close meetings to the public in seven limited and specific circumstances.[23]

Provincial Governments

There are no comprehensive, stand-alone open meetings laws that govern provincial governments in Canada. As with the federal parliament, meetings of provincial legislatures appear to be open to the public by default or as a matter of convention. For example, the *Standing Orders of the Legislative Assembly of Ontario* permit all "strangers" to be excluded from the House or any Committee on a motion properly moved and adopted by the House or the Committee, as the case may be.[24] This implies that House and Committee meetings are, by default, open to the public.

Typically, meetings of provincial cabinets, which are the executive branch of government, are not open to the public. However, in British Columbia, the Liberal government has been holding some cabinet meetings in public since coming to power in 2001. These open cabinet meetings are broadcast live on local legislative television channels and available via webcast on the Internet. A number of key documents from open cabinet meetings, including agendas, slide presentations, cabinet submissions and transcripts, are posted on the Premier's website.[25] The B.C. Information and Privacy Commissioner, David Loukidelis, has noted that opening some cabinet meetings to the public "is consistent with the principles of openness and accountability that underpin the Freedom of Information legislation in this province."[26]

At an organizational level, provincial governments are made up of ministries or departments and various agencies, boards and commissions. Moreover, most provinces have established Crown corporations that operate at arm's length from government and are managed by a board of directors or other governing body. Although it is widely recognized that provincial agencies, boards, commissions and Crown corporations must be accountable to taxpayers, few if any of these public bodies are statutorily required to open their meetings to the public.

Municipal Governments

Although democratically elected local governments have a long history in Canada, municipalities do not have any independent status in the Constitution, which only allocates powers to the federal and provincial governments. Most municipalities in Canada are therefore statutory creatures of the provinces and must comply with legislative ground rules set by provincial legislatures. Consequently, general open meetings requirements governing municipalities in Canada are typically found in provincial statutes, although most municipalities have the flexibility to supplement such requirements with their own bylaws.

In Ontario, the *Municipal Act* requires, with limited exceptions, that all meetings of municipal councils and boards be open to the public.[27] A meeting or part of a meeting may be closed to the public if the subject matter being considered is:

- the security of the property of the municipality or local board;
- personal matters about an identifiable individual, including municipal or local board employees;
- a proposed or pending acquisition or disposition of land by the municipality or local board;
- labour relations or employee negotiations;
- litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
- advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act.[28]

Moreover, a meeting must be closed to the public if the subject matter relates to the consideration of a request under the *Municipal Freedom of Information and Protection of Privacy Act* if the council, board, commission or other body is the head of an institution for the purposes of that *Act*.[29]

Some provinces require municipal councils to hold open meetings but provide wide allowance for closing such sessions to the public. For example, Newfoundland's *Municipalities Act* requires that all meetings of council be held in public.[30] However, rather than restricting closed meetings to narrow and specific purposes, the *Act* provides municipal

councils with broad leeway to exclude the public. If a meeting is simply held as a "privileged" meeting or declared by a vote of council to be a "privileged" meeting, all members of the public are required to leave.[31] A decision of councillors made at a privileged meeting is not deemed to be valid until it has been ratified by a vote of councillors at a public meeting.[32]

In most provinces, meetings of other local bodies, such as school boards and police oversight boards, are required to be open to the public, with certain exceptions. For example, Nova Scotia's *Education Act* requires all school board meetings to be open to the public but allows a board to hold a meeting in private for the purpose of considering issues involving individual students, personnel matters or other confidential information.[33] Similarly, Saskatchewan's *Police Act* requires the Police Board of Commissioners to hold meetings in public but allows the board to conduct meetings in private that relate to contract negotiations, personnel, security or any other matter where, in the board's opinion, there are privacy issues that require the matter to be dealt with in private.[34]

The IPC's Proposal for a Municipal Open Meetings Law

In Ontario, the Information and Privacy Commissioner of Ontario (IPC) has been pushing for the enactment of comprehensive open meetings legislation. In its 2002 annual report, released in June 2003, the IPC recommended that the Ontario government introduce an open meetings bill that would first apply to municipal bodies.[35] In October 2003, the IPC released a paper, *Making Municipal Government More Accountable: The Need for an Open Meetings Law in Ontario*, that recommended that the government introduce a tough new municipal open meetings law that would:

- provide a clear, precise and practical definition of a meeting;
- require public bodies to give the public proper and adequate advance notice of each meeting, including a clear and concise agenda;
- prohibit public bodies from considering business not included on a published agenda;
- give the public a legal right to complain if it feels that open meetings rules have not been followed;
- establish an efficient and accessible oversight system, with a body responsible for investigating complaints and resolving disputes; and
- provide remedies and penalties if the law has been breached.[36]

Definition of a Meeting

An open meetings law must provide a clear, precise and practical definition of a meeting.

The issue of what constitutes a "meeting" has dogged municipalities for years. The media occasionally report that a municipal council or board has held an "informal" meeting, without proper notice, invariably accompanied by cynical allegations that elected officials are trying to avoid an open public process for dealing with controversial issues. Municipal officials may argue, often with good reason, that chats over lunch or discussions at informal social gatherings are not true "meetings." However, such debates will continue to rage unless we have a definition of a meeting that is clear and easily understood.

For the purpose of the open meetings section of the *Municipal Act*, a "meeting" is simply defined as any regular, special, committee or other meeting of a council or local board.[37] This "a meeting is a meeting" definition merely describes the types of meetings that may be held

by a council or board and provides little help in resolving ongoing debates about whether certain "backroom" or informal gatherings of municipal councillors or board members were meetings that should have been held in public.

The courts in Ontario have stepped in on occasion to provide direction on what constitutes a "meeting." In *Southam Inc.* v. *Hamilton-Wentworth (Regional Municipality) Economic Development Committee* (1988),[38] the Ontario Court of Appeal considered whether a workshop on proposed economic development held by the respondent was actually a "meeting." A municipal bylaw required all meetings of council and committees of council to be open to the public, with limited exceptions. The workshop was not held in the usual meeting room and the newspaper was excluded from the meeting.[39]

The Court noted that the bylaw provided no definition of "meeting," so it referred to *Black's Law Dictionary*, which defines a meeting as: " ... an assembling of a number of persons for the purpose of discussing and acting upon some matter or matters in which they have a common interest ..." In the context of a statutory committee, "meeting" should be interpreted as any gathering to which all members of the committee are invited to discuss matters within their jurisdiction.[40] The Court found that the committee workshop was indeed a meeting and was held *in camera* contrary to the bylaw.[41]

An open meetings law that applies to municipal councils and boards in Ontario should provide a clear, precise and practical definition of a meeting. Most people would agree that a gathering of all municipal councillors or board members where a decision is made or formal action is taken would constitute a meeting. However, it would arguably be unreasonable and impractical to include accidental encounters or informal social gatherings between a minority of municipal councillors or board members in the definition of a meeting.

Is a gathering a "meeting" only if a majority of municipal councillors or board members are present? Does a meeting occur if municipal councillors or board members simply "deliberate" about public business or public policy? What about an exchange of e-mail messages or a debate in an Internet chat room? Would participation in electronic forums such as these constitute a "meeting?"

In U.S. open meetings laws, there are a variety of definitions of the term "meeting," but at least two common indicators are found in many of these definitions. First, a "meeting" may only be deemed to have taken place if a "quorum" of a public body's members is in attendance. A quorum is usually defined as a simple majority of the members of a public body; it is the number of members who must be present for a public body to act.[42] A majority of state open meetings laws use a quorum as the test for whether a meeting has taken place.[43]

Second, all states define a meeting as including the "deliberations" of a public body leading up to a decision, even if no formal action occurs.[44] Massachusetts further defines the term "deliberations" as "a verbal exchange between a quorum of members of a governmental body attempting to arrive at a decision on any public business within its jurisdiction."[45]

Some examples of states that include the quorum and deliberations indicators in their definition of a meeting include:

- Arizona defines a meeting as "the gathering of a quorum of members of a public body to propose or take legal action, including any deliberations with respect to such action."[46]

- Texas provides that a meeting is "a deliberation between a quorum of a governmental body, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered, or during which a governmental body takes formal action."[47]

- Oregon and West Virginia define a meeting as "the convening of a governing body of a public body for which quorum is required in order to make a decision or to deliberate toward a decision on any matter."[48]

The debate over whether a particular gathering constitutes a "meeting" has been subject to litigation in the courts and other complaint or advisory forums in U.S. jurisdictions with open meetings laws. In Virginia, the Freedom of Information Advisory Council and its staff issue advisory opinions interpreting provisions of the Virginia *Freedom of Information Act* (FOIA) upon request by citizens, public officials and reporters.[49] The Council has issued advisory opinions about the FOIA's open meetings provisions, including whether a particular gathering was a "meeting."[50]

For example, the Council found that a proposed e-mail network, consisting of the members of the Winchester city council, the city manager, and the city attorney, among others, would be more akin to a meeting than to mere correspondence and noted:

The network would allow an electronic conversation to ensue, in which ideas concerning public business could readily be exchanged among all members of a public body ... While this conversation might not ensue as instantaneously as a face-to-face conversation, the end result would be the same exchange and discussion of ideas outside of the public's view.[51]

Notice Requirements

An open meetings law must:

- ***require municipalities to give the public proper and adequate advance notice of each council and board meeting;***
- ***prohibit councils and boards from considering business not included on a published notice.***

The *Municipal Act* contains at least one provision that specifically requires a municipality to provide the public with notice of certain meetings. Section 150 sets out a municipality's power to licence and regulate businesses for the purposes of health and safety, nuisance control and consumer protection.[52] Subsection 150(4) states that before passing a bylaw under this section, the council of the municipality shall, except in the case of emergency:

- hold at least one public meeting at which any person who attends has an opportunity to make representation with respect to the matter; and
- ensure that notice of the public meeting is given.[53]

However, the *Municipal Act* does not contain a general provision that requires municipalities to provide the public with advance notice that sets out the date, time, location and specific subject matter of all council and board meetings. Instead, subsection 238(2) simply requires that every municipality and local board pass a procedure bylaw for governing the calling, place and proceedings of meetings.[54] In other words, it is left up to municipalities to decide whether they wish to include formal requirements in their procedure bylaws that the public be provided with proper and adequate advance notice of each council and board meeting.

In practice, many municipalities are using their websites to publish advance schedules and agendas for council and board meetings and the subsequent minutes for such meetings. However, the print media in Ontario continue to cite instances where municipal councils and boards have allegedly failed to provide the public with proper notice of meetings. For example, the *Ottawa Citizen* has reported that the Ottawa Public Library Board had a regular practice of starting meetings one hour before the publicly announced time and immediately moving *in camera* at 7:00 p.m. No public notice was ever given that a public session was happening at 6:00 p.m.[55]

Similarly, the *Dunnville Chronicle* noted that on December 17, 2002 and January 10, 2003, Haldimand County councillors met with senior managers to discuss 283 projects and priority issues, including the timelines for the development of the county's first official plan. The *Chronicle* alleged that the meetings were not advertised and the media were not notified.[56]

Most U.S. open meetings statutes have a general provision that require public bodies to provide proper and advance notice of all meetings to the public, although the particular notice requirements vary from statute to statute. Notices that fail to identity the place, date and time of a meeting are usually deemed to be in violation of the law.[57]

In most states, the statutory notice requirements set the minimum standard that must be met. Public bodies may give more extensive notice than stipulated in the open meetings law.[58] Notice requirements found in other statutes or in local ordinances or regulations may also supplement the requirements set forth in an open meetings law.[59]

The advanced time period within which the public must be notified of a meeting varies from state to state. Some open meetings laws prescribe specific notice periods that vary from 24 hours to 10 days prior to regular meetings.[60] A small number of states do not prescribe a specific time period but instead require that "reasonable notice" be given.[61] For example, Maryland requires "reasonable advance notice to the public,"[62] while Oregon requires "public notice, reasonably calculated to give actual notice to interested persons including news media."[63]

Many states require public bodies to provide an agenda to the public at some designated time before a meeting.[64] However, only a small number of states define the term "agenda."[65] In Delaware, an agenda is defined as "a general statement of the major issues expected to be discussed at a public meeting ..."[66] In California, local public bodies are only required to provide "a brief, general description of the business to be transacted or discussed."[67]

Hawaii's "Sunshine Law" prohibits a board from meeting unless written public notice, including an agenda of items to be discussed, is provided at least six days before the meeting.[68] If the notice period is not complied with, the meeting must be cancelled.[69] After an agenda has been filed, a board may not add an item if it is of "reasonably major importance" and action on this item by the board would affect a significant number of persons.[70]

In general, a notice must be posted in a location that is freely accessible to the public.[71] Some states require that notice be filed or posted in the office of the public entity in question for public inspection.[72] For example, Arizona requires public bodies to file a statement with the secretary of state or clerk of counties, cities or other bodies stating the location of public notices of meetings.[73] Oklahoma requires public bodies to give an annual schedule of meetings to the secretary of state for state entities or the appropriate county or municipal clerk for county, municipal, district and regional public entities.[74]

Some states require that notice of a meeting be sent to or printed in a newspaper in the city or town where the public body will be meeting.[75] Few open meetings statutes require public bodies to post notice of meetings on their websites, although this is now a common practice in many jurisdictions.

Right to Complain / Oversight Body

An open meetings law must:

- ***give the public a legal right to complain if it feels that open meetings rules have not been followed;***
- ***establish an efficient and accessible oversight system, with a body responsible for investigating complaints and resolving disputes.***

In most U.S. states, relief for violations of open meetings laws is available on application of "any person," "any taxpayer," or "any citizen of the state."[76] Some states, such as Indiana, do not require plaintiffs to allege or prove that they have suffered any special damage different from that suffered by the public at large.[77] Other states, such as Connecticut, require plaintiffs to show a specific personal and legal interest in the subject matter and some possibility of a special and injurious effect on that specific interest to establish a complaint.[78] Oregon allows "any person affected by a decision" to sue under its open meetings law.[79]

Ontario's *Municipal Act* does not provide the public with a formal right to complain about a violation of the open meetings rules in section 239. However, there are two general provisions that an individual may use to attempt to (1) quash a bylaw for illegality or (2) "restrain by action" the contravention of a bylaw.

Subsection 273(1) states that upon application of any person, the Superior Court of Justice may quash a bylaw of a municipality in whole or in part for illegality. Subsection 273(2) further defines a bylaw as including an order or resolution.[80] In other words, an individual could ask the Superior Court of Justice to quash a procedural bylaw for illegality if the bylaw failed to fully address the calling, place and proceedings of meetings, as required under subsection 238(2) of the *Municipal Act*.

Similarly, a member of the public could use subsection 273(1) to challenge a municipal body that passes a resolution to hold a closed meeting. Subsection 239(4) states that before holding a meeting or part of a meeting that is to be closed to the public, a municipality, local board or committee must pass a resolution that states that a closed meeting will be taking place and the general nature of the matter to be considered at the closed meeting.[81] A member of the public could ask the Superior Court of Justice to quash such a resolution for illegality if the general nature of matter to be considered does not fit into the list of exceptions to open meetings found in subsection 239(2) (e.g., personal matters about an identifiable individual) or if the resolution fails to otherwise comply with the requirements of subsection 239(4).

A member of the public could also attempt to use section 443 of the *Municipal Act* if a municipality contravenes its own procedural bylaw governing the calling, place and proceedings of meetings. Section 443 states that if any bylaw of a municipality or local board under this or any other Act is contravened, in addition to any other remedy and to any penalty imposed by the bylaw, the contravention may be "restrained by action" at the instance of a taxpayer or the municipality or local board.[82] Consequently, if a council put in place a procedural bylaw that required it to give the public seven days notice of meetings but consistently failed to do so, a taxpayer could attempt to use section 443 to "restrain" or stop the council from continuously violating the bylaw.

However, requiring the public to go to court to quash a municipal bylaw for illegality or to "restrain" a municipality from violating a procedure bylaw, is a cumbersome, costly and time-consuming process for addressing open meetings law violations. A better alternative would be to give the public access to an efficient and effective oversight body that could investigate complaints and resolve disputes.

There is substantial variation in U.S. open meetings statutes as to which parties or bodies may enforce such laws. In her book, *Open Meetings Laws*, Ann Taylor Schwing notes that several U.S. states have an ombudsman who oversees enforcement and interpretation of the open meetings law.[83] The courts typically show some level of deference to the ombudsman's interpretations of the law.[84] For example, in Connecticut, the Freedom of Information Commission[85] is responsible for reviewing alleged violations of the state's open meetings law and has the power to issue orders. In general, complainants must first seek relief from the Commission but may appeal to the courts if they are dissatisfied with the Commission's decision.[86]

Oregon's Government Standards and Practices Commission[87] has the power to review and investigate complaints that public officials have violated the state's open meetings law. The Commission may interview witnesses, review minutes and other records *in camera*, and obtain other information about executive sessions (i.e., closed sessions) to determine if a violation of the open meetings law has occurred. It may also impose civil penalties in certain cases.[88]

In Maryland, the Open Meetings Law Compliance Board has the power to receive, review and resolve complaints from any person alleging a violation of the state's open meetings law. The Board may also issue an opinion as to whether a violation has occurred or a prospective violation may occur.[89] However, the Board's opinions are advisory in nature. It is prohibited from requiring or compelling specific action by a public body, and its opinions may not be introduced as evidence in proceedings brought before a court to enforce the open meetings law.[90]

Other state bodies that have some degree of oversight over open meetings laws include the Hawaii Office of Information Practices,[91] New York's Committee on Open Government[92] and Virginia's Freedom of Information Advisory Council.[93]

In many U.S. states, alleged violations of open meetings laws are heard only in the courts. The power to enforce open meetings laws is often given to the attorney general or to the district attorney in the county in which the offence occurred or in which the public body normally meets.[94] Some states allow citizens to enforce the law in the courts but not seek a full range of remedies.[95] For example, in Wisconsin, any person may enforce the open meetings law but only the attorney general or district attorney may seek supplementary relief, including mandamus and injunctive or declaratory relief.[96]

In general, however, the power to seek enforcement of open meetings laws in such states is not vested exclusively in the attorney general or district attorney.[97] Private citizens may also seek enforcement of the law by filing a complaint with the attorney general or district attorney. For example, in Louisiana, the attorney general and district attorney may initiate proceedings on their own initiative and "shall institute such proceedings upon a complaint filed with him by any person ..."[98] Similarly, Rhode Island and Wisconsin authorize citizens to complain to the attorney general, who is required to investigate the allegations and, if appropriate, file a complaint on behalf of the citizen.[99]

Remedies and Penalties

An open meetings law must provide remedies and penalties if the law has been breached.

If a court or oversight body determines that a municipal council or board has breached an open meetings law, there must be a remedy, or series of optional remedies, to address the problem. Moreover, it may be appropriate in certain circumstances to impose a penalty to deter future violations of the open meetings law.

Ontario's *Municipal Act* does not create any remedies or penalties that would specifically apply if a municipal body violated the *Act*'s opening meetings rules. However, as noted above, members of the public may seek relief from the courts if they believe that a municipal body has violated the open meetings rules in the *Act*. Specifically, they may ask the Superior Court of Justice to quash a municipal bylaw for illegality or seek to "restrain by action" the contravention of a bylaw.

Moreover, Part XIV of the *Act*, which deals with enforcement, may give municipalities the power to impose penalties on themselves for violating any opening meeting rules that they establish through the enactment of bylaws. Section 425(1) states that bylaws may be passed by all municipalities and by police services boards for providing that any person who contravenes any bylaw of the municipality or of the board, as the case may be, passed under this Act, is guilty of an offence.[100] In other words, a municipality could theoretically pass a bylaw that makes it an offence for municipal councillors or board members to violate its procedural by-law that governs the calling, place and proceedings of meetings.

Schwing lists a number of remedies and penalties in U.S. open meetings laws that are either generally available or may be applied to specific types of violations:[101]

Injunctive Relief – Most open meetings laws authorize the imposition of temporary or permanent injunctive relief once a violation has been established. Injunctive relief is a prospective remedy. In other words, it requires a public body to comply with the open meetings law for a designated period in the future.[102]

For example, the Tennessee statute provides that the court "shall permanently enjoin any person adjudged by it in violation of this part." Moreover, it requires the court to retain jurisdiction over the parties and the subject matter for one year and requires the defendants to report in writing semi-annually as to their compliance with the open meetings law.[103]

Declaratory Relief – Declaratory relief is also available as a potential remedy under either the open meetings law or a generally applicable declaratory judgment statute. Public bodies themselves may seek such relief from the court to ensure that they are acting in compliance with the open meetings law.[104]

For example, in Iowa and Missouri, the open meetings laws provide that a governmental body that is in doubt as to the legality of closing a particular meeting or vote may sue to ascertain the propriety of its proposed action or may seek a formal opinion of the attorney general.[105]

Mandamus – This is an order that compels a person to perform a public or statutory duty.[106] This remedy is available for violations of open meetings laws under either the open meetings law or under a generally applicable law. As with injunctive relief, mandamus has a prospective application.[107]

Invalidation – In contrast to injunctive relief and mandamus, which are primarily prospective remedies, invalidation of an action taken in violation of an open meetings law is retrospective. Numerous open meetings statutes empower the courts to void any final action taken at a meeting that was not compliance with the statute.[108]

For example, under the Connecticut statute, the Freedom of Information Commission may declare null and void any action taken at any meeting to which a person was denied the right to attend.[109] If a court invalidates an action taken at a meeting because of a violation of the open meetings laws, the usual effect is to require the public body to start over in compliance with the law.[110]

Civil Penalties – Most open meetings laws authorize the imposition of civil monetary penalties once a violation has been established. The law may impose a specific civil penalty or authorize a penalty of up to a certain amount of money (e.g., $1,000). Some statutes increase the penalty for subsequent violations.[111]

For example, New Jersey provides a civil penalty of $100 for the first offence and from $100 to $500 for subsequent offences.[112] Depending on the state, civil penalties may be assessed against the public body itself, against the members of the public body who violated the law, or against a person who intentionally violates the law.[113]

Criminal Monetary Penalties and Imprisonment – Open meetings laws may also provide for criminal penalties, ranging from a fine to imprisonment. Misdemeanour penalties are often increased for subsequent violations.[114]

For example, Michigan provides for a fine of up to $1,000 for the first offence and a fine of up to $2,000 or imprisonment for up to a year or both for the second offence in the same term.[115] Although imprisonment is available as a statutory penalty in some states, it is rarely imposed.[116]

Forfeiture of Office or Future Public Office – Some open meetings laws contain provisions that allow the court to remove or bar from public office any official who has violated the law.[117]

For example, Arizona's open meetings law provides that the court may remove a public officer from office if he or she violated the open meetings law with intent to deprive the public of information or the opportunity to be heard.[118] Similarly, Ohio allows for the removal of a member of a public body who knowingly violates an injunction issued under the open meetings law.[119]

Contempt of Court – A standard remedy for violation of court orders is contempt of court. As in other situations, failure to comply with a court order or a consent decree reached under an open meetings law may result in a finding of contempt.[120]

This same principle applies to some of the ombudsman bodies that oversee open meetings laws in the U.S. For example, any member of a public body who fails to comply with an order of the Connecticut Freedom of Information Commission is guilty of a Class B misdemeanour.[121]

Private Member's Bill 123, *Transparency in Public Matters Act, 2004*

Caroline Di Cocco, a Liberal member of Ontario's provincial parliament, has introduced a private member's bill that captures many of the principles that are key to an effective and meaningful open meetings law. Bill 123, the *Transparency in Public Matters Act, 2004*, was introduced in the Ontario legislature in October and has now been referred to a standing committee of the legislature for further review.

Although private members' bills are rarely enacted into the law, Bill 123 appears to be headed in a different direction. A number of senior cabinet ministers have apparently expressed support for the bill, and it also appears to enjoy the support of opposition politicians in Ontario, with one or two dissenters. It also offers an excellent model for other jurisdictions in Canada that may be contemplating the integration of open meetings legislation into their democratic renewal programs.

Bill 123 applies to designated public bodies and types of designated public bodies that are listed in the schedule to the bill, including the governing boards of hospitals, universities and colleges; municipal councils; police services boards; and library boards. It would require designated public bodies to ensure that meetings are open to the public. A designated public body would be required to provide the public with reasonable notice of its meetings, including a clear, comprehensive agenda of items that would be discussed. It would also be required to make minutes of its meetings available to the public at the same time as minutes are made available to the members of the designated public body.

The bill would provide members of the public with a legal right to complain if they felt that open meetings rules had not been followed, and establish an oversight body responsible for investigating complaints and resolving disputes. A person who believed a designated public body had contravened or was about to contravene the bill could make a complaint to the IPC. The Commissioner would be empowered to review the complaint and to undertake a review on his or her own initiative. The Commissioner could also exercise various powers when reviewing a suspected contravention, including the power to enter and inspect premises, to demand production of things relevant to the review and to require any person to appear before the Commissioner to give evidence.

With respect to remedies, the Commissioner would have the authority to make certain orders after an investigation, including an order that voids a decision made by a designated public body at a meeting that did not conform to the requirements of the bill. The bill would also create certain offences that could lead to the imposition of a monetary penalty. It would be

an offence to wilfully obstruct or attempt to mislead the Commissioner when he or she is performing functions authorized under the bill, or to wilfully fail to comply with an order of the Commissioner. A person who was guilty of such an offence, would be liable, on conviction, to a fine of not more than $2,500.

Although Bill 123 is an excellent open meetings bill with clear rules and enforcement mechanisms, it can be improved in at least two ways. First, the bill does not contain a rule that would prevent public bodies from slipping last-minute items onto an agenda without notifying the public. Hawaii's *Sunshine Law* stipulates that after an agenda has been filed, a board may not add an item if it is of "reasonably major importance" and action on this item by the board would affect a significant number of persons.[122] Bill 123 should be amended to include a similar rule that would prohibit a public body, with limited exceptions, from considering business not included on a published agenda.

Second, the list of designated public bodies and types of designated public bodies that are included in the schedule to the bill is too narrow. The scope of the bill should be expanded to include other public bodies that meet as a group for deliberation and decision-making, except for adjudicative bodies, such as the courts and administrative tribunals. In Ontario, there are dozens of provincial agencies, boards and commissions that operate with public funds that have not been listed in the schedule to the bill. These public bodies deliberate and make decisions that affect citizens on a host of different issues, including the environment, the state of heritage buildings, economic development, and transportation. The governing boards of these public bodies should be subject to all of the open meetings rules in Bill 123.

Conclusion

Open government advocates in Canada are currently facing a rare window of opportunity to bring about significant change. A series of scandals at all levels of government has compelled both governing and opposition parties to demonstrate to the public that they are serious about bringing about greater openness and transparency. In a number of jurisdictions, there are moves afoot to enhance the public's access to information rights and toughen ethics laws governing elected and appointed officials. Open meetings legislation, which is commonly referred to as "the other half of public accountability," must be an essential component of these democratic renewal initiatives.

The broader objective of transparency is to ensure that citizens understand how decisions are made and have an opportunity to participate in the decision-making process. To be truly effective, we need comprehensive open meetings laws that will encourage integrity in our elected and appointed officials and help ensure that they are operating in the public interest. Such laws must ensure that both government officials and the public have a clear understanding of which gatherings constitute a "meeting" and which do not. They need to ensure that citizens are given proper advance notice of meetings, and that public bodies do not try to slip something onto the agenda at the last minute without telling the public. They need to ensure that the public has access to an efficient and effective oversight body that can investigate complaints and resolve disputes. These laws must also provide remedies or penalties if public bodies refuse to comply with open meetings requirements.

The time has come for all levels of government to give focused attention to the open meetings component of our public accountability system. We need comprehensive legislation that builds on our past practices, while at the same time looking to the experience of other jurisdictions that have already made the move to a dedicated open meetings law. The public is demanding that governments be more open and transparent, and enhanced open meetings laws are ideal vehicles for addressing these expectations.

Notes

1. Commission of Inquiry into the Sponsorship Program and Advertising Activities, <www.gomery.ca/en/index.asp>.

2. Daniel Girard, "Legislature raids aimed at influence peddling," *The Toronto Star*, September 11, 2004, <www.thestar.com/NASApp/cs/ContentServer?pagename=thestar/Layout/Article_Type1&c=Article&cid=1094855108196&call_pageid=968332188774&col=968350116467>.

3. Toronto Computer Leasing Inquiry, <www.torontoinquiry.ca/>.

4. <www.pco-bcp.gc.ca/default.asp?Language=E&Page=Publications&doc=dr-rd/dr-rd_e.htm>.

5. <www.attorneygeneral.jus.gov.on.ca/english/drs/>.

6. City of Toronto, News Release, "Appointment of City Integrity Commissioner, July 21, 2004, <www.newswire.ca/en/releases/archive/July2004/21/c4871.html>.

7. Ann Taylor Schwing, *Open Meeting Laws*, 2nd ed. (Anchorage: Fathom Publishing Company, 2000), p. 34.

8. R.S. 1985, c. P-1, <http://laws.justice.gc.ca/en/P-1/>.

9. <www.parl.gc.ca/information/about/process/house/glossary/gloss-e.htm>.

10. <www.parl.gc.ca/information/about/process/house/standingorders/toc-e.htm>, s. 158(1).

11. <www.parl.gc.ca/information/about/process/senate/rules-e/senrules-e.htm>.

12. <www.parl.gc.ca/information/about/process/house/precis/titpg-e.htm>, s. 14.(f).

13. 1998, c. 10, <http://laws.justice.gc.ca/en/C-6.7/18383.html>, s. 35(1).

14. Ibid., s. 35(2).

15. *Canada Pension Plan Investment Board Act*, 1997, c. 40, <http://laws.justice.gc.ca/en/C-8.3/>, s. 52(1).

16. *Physical Activity and Sport Act*, 2003, c. 2, < http://laws.justice.gc.ca/en/P-13.4/>, s. 34(1).

17. *Budget Implementation Act*, 1998, c. 21, <http://laws.justice.gc.ca/en/B-9.82/>, s. 39(1).

18. Ibid., s. 30(1).

19. *Canada Foundation for Sustainable Development Technology Act*, 2001, c. 23, <http://laws.justice.gc.ca/en/C-5.5/index.html>, s. 31(1).

20. 2001, c. 26, <http://laws.justice.gc.ca/en/S-9/>, s. 172(7).

21. 5 U.S.C. §552b, <www.usdoj.gov/04foia/gisastat.pdf>.

22. Ibid., §552b.(b).

23. Ibid., §552b.(c).

24. <www.ontla.on.ca/documents/standing_orders/out/index.htm>, s. 18.

25. <www.prov.gov.bc.ca/prem/popt/cabinet/>

26. <www.opengovernmentcanada.org/News/CBCBC052401.htm>

27. S.O. 2001, c. 25, <http://192.75.156.68/DBLaws/Statutes/English/01m25_e.htm>, s. 239(1).

28. Ibid., s. 239(2).

29. Ibid., s. 239(3).

30. S.N.L. 1999, c. M-24, <http://www.gov.nl.ca/hoa/statutes/m24.htm>, ss. 38, 213(1).

31. Ibid., ss. 38, 213(2).

32. Ibid., s. 213(3).

33. N.S. 1995-96, c. 1, s. 1, <www.gov.ns.ca/legislature/legc/statutes/eductn.htm>, s.s. 59(1), (3).

34. S.S. 1990-91, c. P-15.01, www.qp.gov.sk.ca/documents/English/Statutes/Statutes/P15-01.pdf ss. 27(14), (15).

35. www.ipc.on.ca/docs/ar-02e.pdf, pp.5-6.

36. www.ipc.on.ca/docs/open-mtg.pdf

37. Supra note 27., s. 238(1).

38. 66 O.R. (2d), p. 213.

39. Ibid., p. 214

40. Ibid., p. 217.

41. Ibid., p. 218.

42. Schwing, supra note 7, p. 263.

43. Ibid., p. 265.

44. Ibid., p. 278.

45. Mass. Gen. Laws Ann. ch.30A, § 11A (West 1999 Cum.PP) (state bodies); Mass. Gen. Laws Ann. Ch. 34, § 9F (West 1985) (counties), Mass. Gen. Laws Ann. Ch. 39, § 23A (West 1999 Cum.99); as cited in Schwing, supra note 7, footnote 128 on p. 277.

46. Ariz. Rev. Stat. Ann. § 38-431(3) (1996); as cited in Schwing, ibid., footnote 54 on p. 265.

47. Tex. Gov't Code Ann. § 551.001(4) (Vernon 1994), as cited in Schwing, ibid., footnote 73 on p. 268.

48. Ore. Rev. Stat. § 192.610(5) (1995); W. Va. Code Ann. § 6-9A-2(4) (1998 Supp.), as cited in Schwing, ibid., p. 269 (see footnote 80 for full citation).

49. <http://dls.state.va.us/foiacouncil.htm>

50. <http://dls.state.va.us/groups/foiacouncil/ops/welcome.htm>

51. AO-1-01, <http://dls.state.va.us/groups/foiacouncil/ops/01/AO_1.htm>

52. Supra note 27.

53. Ibid.

54. Ibid.

55. Zev Singer, "Library board debates lessons in democracy," May 15, 2003, p. C1.

56. Karen Best, "Debate continues over closed door council meetings," April 16, 2003, p. 3.

57. Schwing, supra note 7 pp. 166-167.

58. Ibid., p. 167.

59. Ibid.

60. Ibid., p. 177.

61. Ibid., p. 173.

62. Md. Ann. Code State Gov't § 10-506(a) (1995), as cited in Schwing, ibid., footnote 52.

63. Ore. Rev. Stat § 192.640(1) (1995), as cited in Schwing, ibid., footnote 50.

64. Ibid., p. 196.

65. Ibid., p. 197.

66. Del. Code Ann. tit. 29, § 10002(f) (1997), as cited in Schwing, ibid., footnote 177.

67. Cal. Ann. Gov't Code § 54954.2(a) (West 1999 Cum.PP), as cited in Schwing, ibid., footnote 178.

68. Haw. Rev. Stat. ,§ 92-7(a), (b) (1998 Supp.)

69. Ibid., § 92-7(c).

70. Ibid., § 92-7(d).

71. Schwing, supra note 7, p. 188.

72. Ibid., p. 189.

73. Ariz. Rev. Stat. Ann. § 38-431.02(A) (1996), as cited in Schwing, ibid., footnote 136.

74. Okla. Stat. Ann. tit. 25, § 311(A) (West 1999 Cum.PP), as cited in Schwing, ibid., footnote 139 on p. 190.

75. Ibid., p. 190.

76. Schwing, supra note 7, p. 478.

77. Ind. Code Ann. § 5-14-1.5-7(a) (1998 Cum.PP) as cited in Schwing, ibid., footnote 54 on p. 479.

78. Ibid., p. 480.

79. Ore. Rev. Stat. § 192.680(2) (1998 Supp.), as cited in Schwing, ibid., footnote 60.

80. Supra note 27.

81. Ibid.

82. Ibid.

83. Supra note 7, p. 46.

84. Ibid.

85. <www.state.ct.us/foi/>

86. Conn. Gen. Stat. Ann. § 1-206(b),(c) (West 1999 Cum.PP), as cited in Schwing, supra note 7, footnote 229 on p. 47.

87. <www.gspc.state.or.us/>

88. Ore. Rev. Stat. § 192.685(1),(2), 244.260(1) (1998 Supp.), as cited in Schwing, supra note 7, footnotes 236 and 237 on p. 47.

89. Md. Ann. Code State Gov't § 10-502.1 et seq. (1995), as cited in Schwing, footnote 232 on p. 47.

90. Ibid., § 10-502.5(i), (j) (1998 Supp.), as cited in Schwing, footnote 233 on p. 47. See also the Maryland Attorney General's Web site, which contains advisory opinions of the State Open Meetings Law Compliance Board, <www.oag.state.md.us/Opengov/openmeet.htm#omopinions.>

91. www.state.hi.us/oip/

92. <www.dos.state.ny.us/coog/coogwww.html>

93. Supra note 49.

94. Schwing, supra note 7, p. 473.

95. Ibid., p. 474.

96. Wis. Stat. Ann. § 19.97(2) (West 1996), as cited in Schwing, ibid., footnote 16 on p. 473.

97. Ibid.

98. La. Rev. Stat. Ann. tit. 42 § 10(A), (B) (West 1990), as cited in Schwing, ibid., footnote 20 on p. 474.

99. R.I. Gen. Laws § 42-46-8(a) (1998 Supp.); Wis. Stat. Ann. § 19.97 (West 1996), as cited in Schwing, ibid., footnotes 21 and 23.

100. Supra note 27.

101. Supra note 7, p. 499.

102. Ibid., pp. 500-501.

103. Tenn. Code Ann. § 8-44-106(c),(d) as cited in Schwing, ibid., footnote 212 on p. 503.

104. Schwing supra note 7, pp. 504-505.

105. Iowa Code Ann. § 21.6(4) (1995); Mo. Ann. Stat. § 610.027(5) (Vernon 1999 Supp. Pamph.), as cited in Schwing, ibid., footnote 221 on p. 505.

106. R.E. Allen, *The Concise Oxford Dictionary* (New York: Oxford University Press, 1990).

107. Schwing, supra note 7, p. 506.

108. Ibid., 513.

109. Conn. Gen. Stat. Ann. § 1-206(b)(2) (West 1999 Cum.PP), as cited in Schwing, ibid., footnote 282 on p. 513.

110. Ibid., p. 516.

111. Ibid., pp. 507-508.

112. N.J. Stat. Ann. § 10:4-17 (West 1998 Cum.PP), as cited in Schwing, ibid., footnote 242 on p. 508.

113. Ibid., p. 508.

114. Ibid., pp. 509-510.

115. Mich. Comp. Laws Ann. § 15.272 (West 1994), as cited in Schwing, ibid., footnote 267 on p. 511.

116. Ibid., pp. 509-510.

117. Ibid., p. 527.

118. Ariz. Rev. Stat. Ann. § 38-431.07(A) (1996), as cited in Schwing, ibid., footnote 350 on p. 527.

119. Ohio Rev. Code Ann. § 121.22(I)(4) (Anderson 1998 Supp.), as cited in Schwing, ibid., footnote 353 on p. 527.

120. Ibid., p. 529.

121. Conn. Gen. Stat. Ann. § 1-240(b) (West 1999 Cum.PP), as cited in Schwing, ibid., footnote 364 on p. 529.

122. Supra note 68.

Appendix

1ST SESSION, 38TH LEGISLATURE, ONTARIO
53 ELIZABETH II, 2004

Bill 123

An Act to require that meetings of provincial and municipal boards, commissions and other public bodies be open to the public

Ms Di Cocco

Private Member's Bill

1st Reading	October 13, 2004
2nd Reading	
3rd Reading	
Royal Assent	

Printed by the Legislative Assembly of Ontario

1re SESSION, 38e LÉGISLATURE, ONTARIO
53 ELIZABETH II, 2004

Projet de loi 123

Loi exigeant que les réunions des commissions et conseils provinciaux et municipaux et d'autres organismes publics soient ouvertes au public

Mme Di Cocco

Projet de loi de député

1re lecture	13 octobre 2004
2e lecture	
3e lecture	
Sanction royale	

Imprimé par l'Assemblée législative de l'Ontario

EXPLANATORY NOTE

The Bill designates certain public bodies and types of public bodies and requires those designated public bodies to give reasonable notice of their meetings to the public and ensure that the meetings are open to the public. A designated public body may exclude the public from a meeting if matters specified in the Bill are going to be discussed at the meeting. A designated public body is required to keep minutes of its meetings and to publish them. The Bill requires a designated public body to make rules respecting how it will give notice of its meetings and how minutes will be made available to the public.

The Bill establishes a procedure by which a person who believes a designated public body has contravened or is about to contravene the Bill may make a complaint to the Information and Privacy Commissioner. The Commissioner is empowered to review the complaint and to undertake a review on his or her own initiative. The Bill sets out the powers the Commissioner may exercise when reviewing a suspected contravention, including the power to enter and inspect premises, to demand production of things relevant to the review and to require any person to appear before the Commissioner to give evidence.

The Bill authorizes the Commissioner to make certain orders after a review, including an order that voids a decision made by a designated public body at a meeting that did not conform to the requirements of the Bill. It is an offence to wilfully fail to comply with an order of the Commissioner. The Bill sets out certain other powers of the Commissioner, including the power to delegate his or her powers, and makes it an offence to wilfully obstruct or attempt to mislead the Commissioner when he or she is performing functions authorized under the Bill.

Other provisions of the Bill are a conflict provision in the event of a conflict with another Act or regulation and a provision authorizing the Lieutenant Governor in Council to make specified regulations.

NOTE EXPLICATIVE

Le projet de loi désigne certains organismes publics et types d'organismes publics et exige de ceux-ci qu'ils donnent au public un préavis raisonnable de leurs réunions et veillent à ce que celles-ci soient ouvertes au public. Un organisme public désigné peut tenir une réunion à huis clos si des questions précisées dans le projet de loi doivent y faire l'objet de discussions. Un organisme public désigné doit tenir des procès-verbaux de ses réunions et les publier. Le projet de loi exige qu'un organisme public désigné établisse des règles sur la façon de donner un préavis de ses réunions et de mettre ses procès-verbaux à la disposition du public.

Le projet de loi établit une procédure permettant à quiconque de porter plainte au commissaire à l'information et à la protection de la vie privée s'il croit qu'un organisme public désigné a contrevenu ou est sur le point de contrevenir au projet de loi. Ce dernier est habilité à examiner la plainte et à entreprendre un examen de sa propre initiative. Le projet de loi énonce les pouvoirs que le commissaire peut exercer lorsqu'il examine une contravention présumée, y compris le pouvoir de pénétrer dans des locaux et de les inspecter, d'exiger la production de pièces pertinentes et d'exiger qu'une personne comparaisse devant lui pour faire un témoignage.

Le projet de loi autorise le commissaire à rendre certaines ordonnances après un examen, y compris une ordonnance qui annule une décision prise par un organisme public désigné lors d'une réunion qui n'était pas conforme aux exigences énoncées dans le projet de loi. Le fait d'omettre volontairement de se conformer à une ordonnance du commissaire constitue une infraction. Le projet de loi énonce certains autres pouvoirs du commissaire, y compris celui de déléguer ceux-ci, et prévoit que le fait d'entraver volontairement le commissaire ou de tenter volontairement de l'induire en erreur dans l'exercice des fonctions que le projet de loi autorise constitue une infraction.

Parmi les autres dispositions du projet de loi figurent une disposition sur l'incompatibilité avec une autre loi ou un autre règlement et une disposition qui autorise le lieutenant-gouverneur en conseil à prendre des règlements précisés.

Bill 123 2004

An Act to require that meetings of provincial and municipal boards, commissions and other public bodies be open to the public

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PURPOSE AND APPLICATION

Purpose

1. The purpose of this Act is to ensure that the meetings of designated public bodies at which deliberation or decision-making occurs are open to the public and that the minutes of those meetings are made available to the public.

Application

2. (1) This Act applies to the following designated public bodies:

1. Public bodies that are designated in Part I of Schedule 1 to this Act or that are prescribed as designated by the regulations made under this Act.

2. Public bodies that belong to a type that is designated in Part II of Schedule 1 to this Act or to a type that is prescribed as designated by the regulations made under this Act.

Exception

(2) If a designated public body referred to in subsection (1) performs an adjudicative function, this Act does not apply to meetings of that body that are held with respect to that function.

OPEN MEETINGS AND MINUTES

What constitutes a meeting

3. (1) A meeting of a designated public body occurs for the purposes of this Act if the following conditions apply:

1. The meeting is one which the entire membership of the body is entitled to attend or which a specified number of members is entitled to attend, such as the meeting of a committee or other designated division of the body.

2. The purpose of the meeting is to deliberate on or do any thing within the jurisdiction or terms of reference of the body, committee or other division.

Projet de loi 123 2004

Loi exigeant que les réunions des commissions et conseils provinciaux et municipaux et d'autres organismes publics soient ouvertes au public

Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

OBJET ET CHAMP D'APPLICATION

Objet

1. L'objet de la présente loi est de faire en sorte que les réunions d'organismes publics désignés au cours desquelles des délibérations ont lieu ou des décisions sont prises soient ouvertes au public et que le procès-verbal de ces réunions soient mis à sa disposition.

Champ d'application

2. (1) La présente loi s'applique aux organismes publics désignés suivants :

1. Les organismes publics désignés à la partie I de l'annexe 1 de la présente loi ou qui sont prescrits comme tels par les règlements pris en application de la présente loi.

2. Les organismes publics qui appartiennent à un type désigné à la partie II de l'annexe 1 de la présente loi ou à un type prescrit comme tel par les règlements pris en application de la présente loi.

Exception

(2) Si un organisme public désigné visé au paragraphe (1) a une fonction d'adjudication, la présente loi ne s'applique pas aux réunions qu'il tient à l'égard de cette fonction.

RÉUNIONS PUBLIQUES ET PROCÈS-VERBAUX

Ce qui constitue une réunion

3. (1) Pour l'application de la présente loi, une réunion d'un organisme public désigné a lieu si les conditions suivantes sont réunies :

1. L'ensemble des membres de l'organisme ou un nombre précisé de ceux-ci, comme dans le cas d'une réunion d'un comité ou d'une autre division désignée de l'organisme, ont le droit d'assister à la réunion.

2. L'objet de la réunion est de délibérer d'une question ou de faire toute chose qui relève de la compétence ou du mandat de l'organisme, du comité ou de la division.

3. The number of members in attendance constitutes a quorum or, in the absence of a quorum requirement in the rules or terms of reference of the body, committee or other division, a majority.

Same

(2) A meeting includes an electronic or telephone meeting to which the conditions described in subsection (1) apply.

Notice of meetings

4. A designated public body shall give reasonable notice to the public of every of its meetings by posting in a publicly accessible location and by publishing on its website or in any other print or electronic medium of mass communication,

(a) the date, time and location of the meeting;

(b) a clear, comprehensive agenda of the items to be discussed at the meeting; and

(c) if the meeting is an electronic or telephone meeting, information on how the public body will ensure, in accordance with section 6, that members of the public are able to exercise, without difficulty, their right to attend the meeting under subsection 5 (1).

Meetings to be open

5. (1) A designated public body shall ensure that its meetings are open to the public.

Exceptions

(2) Despite subsection (1), a designated public body may exclude the public from any part of a meeting if,

(a) financial, personal or other matters may be disclosed of such a nature that the desirability of avoiding public disclosure of them in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that meetings be open to the public;

(b) a person involved in a civil or criminal proceeding may be prejudiced;

(c) the safety of a person may be jeopardized;

(d) personnel matters involving an identifiable individual, including an employee of the designated public body, will be discussed;

(e) negotiations or anticipated negotiations between the designated public body and a person, bargaining agent or party to a proceeding or an anticipated proceeding relating to labour relations or a person's employment by the designated public body will be discussed;

(f) litigation affecting the designated public body will be discussed or instructions will be given to or opinions received from solicitors for the designated public body;

3. Le nombre de membres présents constitue le quorum ou, si les règles ou le mandat de l'organisme, du comité ou de la division n'exigent pas de quorum, la majorité.

Idem

(2) Une réunion s'entend notamment d'une réunion électronique ou téléphonique à laquelle s'appliquent les conditions visées au paragraphe (1).

Préavis des réunions

4. Un organisme public désigné donne au public un préavis raisonnable de chacune de ses réunions en affichant les renseignements suivants dans un lieu accessible au public et en les publiant sur son site Web ou par tout autre moyen imprimé ou électronique de communication de masse :

a) les date, heure et lieu de la réunion;

b) un ordre du jour clair et détaillé de la réunion;

c) s'il s'agit d'une réunion électronique ou téléphonique, des renseignements sur la façon dont l'organisme public veillera, conformément à l'article 6, à ce que des membres du public puissent exercer sans difficulté leur droit d'y participer en vertu du paragraphe 5 (1).

Réunions ouvertes au public

5. (1) Un organisme public désigné veille à ce que ses réunions soient ouvertes au public.

Exceptions

(2) Malgré le paragraphe (1), un organisme public désigné peut tenir toute partie d'une réunion à huis clos si, selon le cas :

a) peuvent y être divulguées des questions financières, personnelles ou autres de nature telle qu'il vaut mieux éviter leur divulgation dans l'intérêt de toute personne concernée ou dans l'intérêt public plutôt que d'adhérer au principe selon lequel les réunions doivent être publiques;

b) une personne engagée dans une instance civile ou criminelle pourrait être lésée;

c) la sécurité de quiconque risque d'être compromise;

d) des questions de personnel concernant un particulier identifiable, y compris un employé de l'organisme public désigné, feront l'objet de discussions;

e) des négociations ou des négociations prévues entre l'organisme public désigné et une personne, un agent négociateur ou une partie à une instance ou à une instance prévue en ce qui a trait aux relations de travail ou à l'emploi d'une personne par l'organisme public désigné feront l'objet de discussions;

f) des litiges impliquant l'organisme public désigné feront l'objet de discussions ou des instructions seront données aux procureurs représentant l'organisme public désigné ou ces derniers donneront des avis;

(g) matters prescribed by the Lieutenant Governor in Council under clause 24 (b) will be discussed; or

(h) the designated public body will deliberate whether to exclude the public from a meeting, and the deliberation will consider whether one or more of clauses (a) through (g) are applicable to the meeting or part of the meeting.

Motion stating reasons

(3) A designated public body shall not exclude the public from a meeting before a vote is held on a motion to exclude the public, which motion must clearly state the nature of the matter to be considered at the closed meeting and the general reasons why the public is being excluded.

Taking of vote

(4) The meeting shall not be closed to the public during the taking of the vote on the motion under subsection (3).

Role of body re electronic meetings

6. If a designated public body holds an electronic or telephone meeting, the body shall ensure that members of the public are able to exercise, without difficulty, their right to attend the meeting under subsection 5 (1).

Minutes

7. (1) A designated public body shall keep minutes of its meetings in accordance with this section.

Minutes – requirements

(2) The minutes of meetings shall,

(a) be clear and neutral; and

(b) contain sufficient detail to adequately inform the public of the main subject-matters considered, any deliberations engaged in and any decisions made.

Minutes to be made available

(3) A designated public body shall post the minutes of its meetings in a publicly accessible location and shall publish them on its website at the same time as the minutes are made available to the members of the designated public body, whether the minutes have been adopted or not.

Minutes when public excluded

(4) If a designated public body excludes the public from a meeting in accordance with subsection 5 (2), before making the minutes available to the public under subsection (1), the designated body may remove details that would reveal any information that was the basis for excluding the public under subsection 5 (2), but shall not remove any more details than are reasonably necessary.

Decisions made when public excluded

(5) If a designated public body makes a decision at a meeting or part of a meeting from which the public is excluded, the minutes shall clearly record the decision

g) des questions prescrites par le lieutenant-gouverneur en conseil en application de l'alinéa 24 b) feront l'objet de discussions;

h) l'organisme public désigné délibérera sur la question de savoir s'il doit tenir une réunion à huis clos et si un ou plusieurs des alinéas a) à g) s'appliquent à la réunion ou à une partie de celle-ci.

Motion indiquant les motifs

(3) Un organisme public désigné ne doit pas tenir une réunion à huis clos avant qu'un vote n'ait lieu sur une motion visant à tenir une telle réunion. Cette motion doit clairement indiquer la nature de la question devant être étudiée à la réunion à huis clos ainsi que les motifs généraux pour lesquels cette réunion doit se tenir à huis clos.

Vote

(4) La réunion ne doit pas se tenir à huis clos au moment du vote sur la motion visée au paragraphe (3).

Rôle de l'organisme lors de réunions électroniques

6. Si un organisme public désigné tient une réunion électronique ou téléphonique, il veille à ce que des membres du public puissent exercer sans difficulté leur droit d'y participer aux termes du paragraphe 5 (1).

Procès-verbal

7. (1) Un organisme public désigné tient un procès-verbal de ses réunions conformément au présent article.

Procès-verbal : exigences

(2) Le procès-verbal des réunions :

a) est clair et neutre;

b) contient suffisamment de détails pour correctement informer le public des principales questions traitées, des délibérations engagées et des décisions prises.

Procès-verbal mis à la disposition du public

(3) Un organisme public désigné affiche le procès-verbal de ses réunions dans un lieu accessible au public et le publie sur son site Web au même moment de le mettre à la disposition de ses membres, que celui-ci ait été adopté ou non.

Procès-verbal d'une réunion tenue à huis clos

(4) S'il tient une réunion à huis clos conformément au paragraphe 5 (2), un organisme public désigné peut, avant de mettre le procès-verbal à la disposition du public en vertu du paragraphe (1), en retirer les détails qui révéleraient un renseignement qui justifiait que la réunion se tienne à huis clos en vertu du paragraphe 5 (2). Toutefois, il ne doit retirer que les détails qui sont raisonnablement nécessaires.

Décision prise lors d'une réunion tenue à huis clos

(5) Si un organisme public désigné prend une décision lors d'une réunion ou d'une partie de réunion tenue à huis clos, le procès-verbal fait clairement état de la décision et

and provide as much detail as is reasonably possible without disclosing any information that was the basis for excluding the public under subsection 5 (2).

Other Duties of Designated Public Bodies

Rules

8. (1) By the end of its third meeting after the day this Act comes into force, a designated public body, having regard to the purpose set out in section 1, shall make rules respecting,

(a) how public notice of its meetings shall be given;

(b) how the minutes of its meetings shall be made available to the public; and

(c) how rules made under this subsection and amendments made under subsection (2) shall be made available to the public.

Amendment or revision of rules

(2) A designated public body may amend the rules made under subsection (1) at any time.

Compliance with rules

9. By the end of its third meeting after this Act comes into force, a designated public body shall appoint a member of the body to be responsible for overseeing compliance by the body with section 7 and with the rules made under section 8.

Complaints and Reviews

Complaint to the Commissioner

10. (1) A person who has reasonable grounds to believe that a designated public body has contravened or is about to contravene a provision of this Act may make a written complaint to the Information and Privacy Commissioner appointed under the *Freedom of Information and Protection of Privacy Act*.

Time for complaint

(2) A complaint made under subsection (1) shall be made within one year of the day on which the matter giving rise to the complaint first came to the attention of the complainant or should reasonably have come to his or her attention.

Response of Commissioner

11. (1) On receiving a complaint made under subsection 10 (1), the Commissioner may inform the relevant designated public body of the nature of the complaint and may,

(a) give the designated public body an opportunity to respond to the complaint;

(b) require the complainant and designated public body to attempt to reach a settlement within a time period specified by the Commissioner; or

fournit autant de détails que raisonnablement possible sans divulguer de renseignement qui justifiait que la réunion se tienne à huis clos en vertu du paragraphe 5 (2).

Autres fonctions des organismes publics désignés

Règles

8. (1) Au plus tard à la fin de sa troisième réunion après le jour de l'entrée en vigueur de la présente loi, un organisme public désigné établit, eu égard à l'objet énoncé à l'article 1, des règles relatives à ce qui suit :

a) la façon dont ses réunions seront annoncées au public;

b) la façon dont les procès-verbaux de ses réunions seront mis à la disposition du public;

c) la façon dont les règles établies en application du présent paragraphe et les modifications apportées en vertu du paragraphe (2) seront mises à la disposition du public.

Modification ou révision des règles

(2) Un organisme public désigné peut modifier en tout temps les règles établies en application du paragraphe (1).

Respect des règles

9. Au plus tard à la fin de sa troisième réunion après le jour de l'entrée en vigueur de la présente loi, un organisme public désigné nomme un membre de l'organisme qui sera chargé de s'assurer que l'organisme respecte l'article 7 ainsi que les règles établies en application de l'article 8.

Plaintes et examens

Plainte au commissaire

10. (1) Quiconque a des motifs raisonnables de croire qu'un organisme public désigné a contrevenu ou est sur le point de contrevenir à une disposition de la présente loi peut porter plainte par écrit au commissaire à l'information et à la protection de la vie privée nommé en application de la *Loi sur l'accès à l'information et la protection de la vie privée*.

Délai imparti pour porter plainte

(2) La plainte visée au paragraphe (1) est portée au plus tard un an après le jour où la question sur laquelle elle se fonde a été portée pour la première fois à la connaissance du plaignant ou aurait raisonnablement dû l'être.

Réponse du commissaire

11. (1) Sur réception d'une plainte portée en vertu du paragraphe 10 (1), le commissaire peut informer l'organisme public désigné concerné de la nature de celle-ci et peut, selon le cas :

a) donner à l'organisme public désigné l'occasion d'y répondre;

b) exiger que le plaignant et l'organisme public désigné tentent de parvenir à un règlement dans le délai que précise le commissaire;

(c) authorize a mediator to review the complaint and to try to effect a settlement, within a time period that the Commissioner specifies, between the complainant and the designated public body.

Dealings without prejudice

(2) If the Commissioner takes an action under clause (1) (b) or (c) but no settlement is reached within the specified time period, none of the information disclosed in the process of attempting to settle the complaint shall be used or disclosed outside the attempted settlement, including in a review of a complaint under this section or in an inspection under section 14, unless all parties expressly consent.

Commissioner's review

12. (1) If the Commissioner does not take an action under clause 11 (1) (b) or (c) or has done so but no settlement is reached within the specified time period, the Commissioner may review the complaint if satisfied that there are reasonable grounds to do so.

No review

(2) The Commissioner may decide not to review a complaint if, in the Commissioner's opinion,

(a) the designated public body about which the complaint is made has responded adequately to the complaint;

(b) the length of time that has elapsed between the date that the matter that is the basis of the complaint arose and the date the complaint was made is such that a review under this section would likely result in undue prejudice to any person, even if the complaint was made within the time permitted under subsection 10 (2);

(c) the complaint is frivolous, vexatious or made in bad faith; or

(d) there is any other proper reason to do so.

Notice

(3) On deciding not to review a complaint, the Commissioner shall give notice to the complainant and the relevant designated public body and shall specify the reasons for the decision.

Commissioner's self-initiated review

(4) If the Commissioner has reasonable grounds to believe that a designated public body has contravened or is about to contravene a provision of this Act, the Commissioner may, on his or her own initiative, conduct a review of the designated public body in relation to the suspected contravention.

Notice

(5) On deciding to review a complaint or to undertake a review on his or her own initiative, the Commissioner shall give notice to the complainant, if any, and the appropriate designated public body.

c) autoriser un médiateur à examiner la plainte et à tenter d'amener le plaignant et l'organisme public désigné à un règlement dans le délai que précise le commissaire.

Aucun effet sur les droits et obligations

(2) Si le commissaire prend une des mesures visées à l'alinéa (1) b) ou c), mais qu'aucun règlement n'intervient dans le délai précisé, aucun des renseignements divulgués dans le cadre de cette tentative de règlement ne doit être utilisé ou divulgué à une autre fin, y compris aux fins de l'examen d'une plainte effectué en vertu du présent article ou d'une inspection effectuée en vertu de l'article 14, à moins que toutes les parties y consentent expressément.

Examen par le commissaire

12. (1) S'il ne prend aucune des mesures visées à l'alinéa 11 (1) b) ou c) ou qu'il en a pris une sans qu'il ne soit parvenu à un règlement dans le délai précisé, le commissaire peut examiner la plainte s'il est convaincu qu'il existe des motifs raisonnables de le faire.

Aucun examen

(2) Le commissaire peut décider de ne pas examiner la plainte s'il est d'avis que, selon le cas :

a) l'organisme public désigné qui fait l'objet de la plainte y a répondu adéquatement;

b) le temps qui s'est écoulé entre la date à laquelle la question sur laquelle se fonde la plainte et celle où la plainte a été portée est tel que l'examen prévu au présent article causerait vraisemblablement un préjudice indu à quiconque, même si la plainte a été portée dans le délai prévu au paragraphe 10 (2);

c) la plainte est frivole, vexatoire ou portée de mauvaise foi;

d) il existe un autre motif valable de ne pas examiner la plainte.

Avis

(3) Lorsqu'il décide de ne pas examiner une plainte, le commissaire en avise le plaignant et l'organisme public désigné concerné et précise les motifs de sa décision.

Examen à l'initiative du commissaire

(4) S'il a des motifs raisonnables de croire qu'un organisme public désigné a contrevenu ou est sur le point de contrevenir à une disposition de la présente loi, le commissaire peut, de sa propre initiative, effectuer un examen de l'organisme public désigné en ce qui a trait à la contravention présumée.

Avis

(5) Lorsqu'il décide d'examiner une plainte ou d'entreprendre un examen de sa propre initiative, le commissaire en avise le plaignant, le cas échéant, et l'organisme public désigné approprié.

Conduct of Commissioner's review

13. (1) When exercising his or her authority to conduct a review, the Commissioner shall act at all times with regard to the purpose of this Act.

Same

(2) In conducting a review, the Commissioner may make the rules of procedure that the Commissioner considers necessary and the *Statutory Powers Procedure Act* does not apply to the review.

Evidence

(3) In conducting a review, the Commissioner may receive and accept any evidence and other information that the Commissioner sees fit, whether on oath, by affidavit or otherwise and whether or not it is or would be admissible in a court of law.

Inspection powers

14. (1) Subject to subsections (2) and (3), in conducting a review under section 12, the Commissioner may, without a warrant or court order, enter and inspect any premises in accordance with this section if,

(a) the Commissioner has reasonable grounds to believe that,

(i) the designated public body under review is using the premises for a purpose related to the suspected contravention of this Act, and

(ii) the premises contains books, records or other documents relevant to the suspected contravention of this Act;

(b) the Commissioner is conducting the inspection for the purpose of determining whether the person has contravened or is about to contravene a provision of this Act or its regulations; and

(c) the Commissioner does not have reasonable grounds to believe that a person has committed an offence.

Time of entry

(2) The power to enter and inspect a premises without a warrant may be exercised only during the place's regular business hours or, if it does not have regular business hours, during daylight hours.

Entry to dwellings

(3) The Commissioner shall not, without the consent of the occupier, enter a place that is being used as a dwelling, except under the authority of a search warrant issued under subsection (4).

Search warrants

(4) Where a justice of the peace is satisfied by evidence on oath or affirmation that there are reasonable grounds to believe it is necessary to enter a place that is being used as a dwelling to investigate a matter in relation to a review, he or she may issue a warrant authorizing the entry by a person named in the warrant.

Procédure relative à l'examen du commissaire

13. (1) Lorsqu'il exerce son autorité d'entreprendre un examen, le commissaire tient compte en tout temps de l'objet de la présente loi.

Idem

(2) Le commissaire peut, lorsqu'il effectue un examen, adopter les règles de procédure qu'il estime nécessaires. La *Loi sur l'exercice des compétences légales* ne s'applique pas à l'examen.

Preuve

(3) Le commissaire peut, lorsqu'il effectue un examen, recevoir et accepter les éléments de preuve et autres renseignements qu'il estime appropriés, qu'ils soient présentés sous serment, par affidavit ou autrement et qu'ils soient ou seraient admissibles ou non devant un tribunal judiciaire.

Pouvoirs d'inspection

14. (1) Sous réserve des paragraphes (2) et (3), le commissaire qui effectue un examen en vertu de l'article 12 peut, sans mandat ni ordonnance d'un tribunal, pénétrer dans des locaux et les inspecter conformément au présent article si les conditions suivantes sont réunies :

a) il a des motifs raisonnables de croire ce qui suit :

(i) l'organisme public désigné qui fait l'objet de l'examen utilise les locaux à une fin liée à la contravention présumée de la présente loi,

(ii) les locaux contiennent des livres, des dossiers ou d'autres documents qui se rapportent à la contravention présumée de la présente loi;

b) il effectue l'inspection dans le but d'établir si la personne a contrevenu à une disposition de la présente loi ou de ses règlements ou est sur le point de le faire;

c) il n'a aucun motif raisonnable de croire qu'une personne a commis une infraction.

Heure d'accès

(2) Le pouvoir de pénétrer dans des locaux et de les inspecter sans mandat ne peut être exercé que pendant les heures d'ouverture normales des locaux ou, en l'absence de celles-ci, pendant les heures diurnes.

Accès à un logement

(3) Le commissaire ne doit pas, sans le consentement de l'occupant, pénétrer dans des locaux utilisés comme logement, si ce n'est sous l'autorité d'un mandat de perquisition décerné en vertu du paragraphe (4).

Mandat de perquisition

(4) Le juge de paix qui est convaincu, sur la foi de témoignages recueillis sous serment ou affirmation solennelle, qu'il existe des motifs raisonnables de croire qu'il est nécessaire de pénétrer dans des locaux utilisés comme logement pour faire enquête sur une question liée à l'examen peut décerner un mandat autorisant la personne qui y est nommée à y pénétrer.

Review powers

15. (1) In conducting a review, the Commissioner may,

(a) demand, in writing, the production of any books, records, documents or any other thing relevant to the review or copies of extracts from books, records or other documents; and

(b) use any data storage, processing or retrieval device or system belonging to the designated public body being investigated in order to produce a record in readable form of any books, records or other documents relevant to the review.

Obligation to assist

(2) If the Commissioner makes a demand for any thing under subsection (1), the person with custody of the thing shall produce it to the Commissioner and, at the request of the Commissioner, shall provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce a record in readable form.

Commissioner may either copy or remove documents

(3) If the Commissioner requests a copy of any document produced to him or her, the person with custody of the document shall either,

(a) copy the document, in which case he, she or it may charge the Commissioner a reasonable recovery fee; or

(b) permit the Commissioner to remove the document from the premises, in which case the Commissioner shall issue a written receipt.

Return of documents

(4) If the Commissioner removes any thing from a place under clause (3) (b), he or she may make copies of the thing and shall promptly return it to the person who produced it.

Admissibility of copies

(5) A copy certified by the Commissioner as a copy is admissible in evidence to the same extent, and has the same evidentiary value, as the thing copied.

Answers under oath

(6) In conducting a review, the Commissioner may, by summons, in the same manner and to the same extent as a superior court of record, require the appearance of any person before the Commissioner and compel them to give oral or written evidence on oath or affirmation.

Document privileged

(7) A document or thing produced by a person in the course of an inquiry is privileged in the same manner as if the inquiry were a proceeding in a court.

Protection

(8) Except on the trial of a person for perjury in re-

Pouvoirs d'examen

15. (1) Lorsqu'il effectue un examen, le commissaire peut :

a) exiger par écrit la production de livres, de dossiers, de documents ou d'autres pièces qui se rapportent à l'examen ou des copies d'extraits de ceux-ci;

b) avoir recours à tout dispositif ou système de stockage, de traitement ou de récupération des données appartenant à l'organisme public désigné qui fait l'objet de l'enquête afin de produire un dossier sous une forme lisible à partir de livres, de dossiers ou d'autres documents qui se rapportent à l'examen.

Aide obligatoire

(2) Si le commissaire exige la production d'une pièce en vertu du paragraphe (1), quiconque en a la garde la produit et lui fournit sur demande l'aide qui est raisonnablement nécessaire pour le produire sous une forme lisible, en recourant notamment à un dispositif ou système de stockage, de traitement ou de récupération des données.

Le commissaire peut copier ou enlever les documents

(3) Si le commissaire demande une copie d'un document produit, la personne qui en a la garde :

a) soit copie le document, auquel cas elle peut demander au commissaire des droits raisonnables de recouvrement;

b) soit permet au commissaire d'enlever le document des locaux, auquel cas le commissaire délivre un reçu écrit.

Remise des documents

(4) Si le commissaire enlève une pièce d'un local aux termes de l'alinéa (3) b), il peut en faire des copies et la remet promptement à la personne qui l'a produite.

Admissibilité des copies

(5) La copie que le commissaire certifie comme étant une copie est admissible en preuve au même titre que l'original et a la même valeur probante que lui.

Réponses données sous serment

(6) Lorsqu'il effectue un examen, le commissaire peut, au moyen d'une assignation, de la même façon et dans la même mesure qu'une cour supérieure d'archives, exiger la comparution d'une personne devant lui et l'obliger à témoigner par écrit ou oralement sous serment ou affirmation solennelle.

Documents privilégiés

(7) Les documents ou pièces que produit une personne au cours d'une enquête sont privilégiés comme s'il s'agissait d'une instance devant un tribunal.

Protection

(8) Sauf à l'occasion du procès d'une personne par

spect of his or her sworn testimony, no statement made or answer given by that or any other person in the course of a review by the Commissioner is admissible in evidence in any court or at any inquiry or in any other proceedings, and no evidence in respect of proceedings before the Commissioner shall be given against any person.

Protection under federal Act

(9) The Commissioner shall inform a person giving a statement or answer in the course of a review by the Commissioner of the person's right to object to answer any question under section 5 of the *Canada Evidence Act*.

Representations

(10) The Commissioner shall give the person who made the complaint, the designated public body about which the complaint is made and any other affected person an opportunity to make representations to the Commissioner.

Representative

(11) A person who has the right to make representations to the Commissioner may be represented by counsel or another person.

Access to representations

(12) The Commissioner may permit a person to be present during the representations that another person makes to the Commissioner or to have access to them unless doing so would disclose any information for which a designated public body would be entitled under subsection 5 (2) to exclude the public from a meeting.

Proof of appointment

(13) If the Commissioner or Assistant Commissioner has delegated his or her powers under this section to an officer or employee of the Commissioner, the officer or employee who exercises the powers shall, on request, produce the certificate of delegation signed by the Commissioner or Assistant Commissioner, as the case may be.

Commissioner may make orders

16. (1) After conducting a review, the Commissioner may,

(a) make an order that voids a decision, recommendation or action made at a meeting that did not conform to the requirements of this Act by a designated public body whose activities the Commissioner reviewed;

(b) make an order directing a designated public body whose activities the Commissioner reviewed to perform a duty imposed by this Act;

(c) make an order directing a designated public body whose activities the Commissioner reviewed to change, cease or not commence any practice with respect to any matter within the scope of this Act;

suite d'un parjure au moment de son propre témoignage sous serment, nulle déclaration faite ou réponse donnée par cette personne ou une autre personne au cours d'un examen effectué par le commissaire n'est admissible en preuve devant un tribunal, dans le cadre d'une enquête, ou au cours d'une instance. Aucun témoignage rendu en cours d'instance devant le commissaire ne peut servir de preuve contre qui que ce soit.

Protection en vertu de la loi fédérale

(9) Le commissaire informe quiconque fait une déclaration ou donne une réponse au cours de l'examen qu'il effectue du droit que lui confère l'article 5 de la *Loi sur la preuve au Canada* de s'opposer à répondre à une question.

Observations

(10) Le commissaire donne à la personne qui a porté plainte, à l'organisme public désigné qui fait l'objet de la plainte et à toute autre personne intéressée l'occasion de lui présenter des observations.

Représentant

(11) La personne qui a le droit de présenter des observations au commissaire peut être représentée par un avocat ou par une autre personne.

Accès aux observations

(12) Le commissaire peut permettre à une personne d'être présente lors de la présentation d'observations devant lui par une autre personne ou d'y avoir accès, sauf si cela devait risquer de divulguer un renseignement à l'égard duquel un organisme public désigné aurait le droit de tenir une réunion à huis clos en vertu du paragraphe 5 (2).

Attestation de la nomination

(13) Si le commissaire ou le commissaire adjoint a délégué les pouvoirs que lui confère le présent article à un des fonctionnaires ou employés du commissaire, le fonctionnaire ou l'employé qui exerce ces pouvoirs présente, sur demande, le certificat de délégation signé par le commissaire ou le commissaire adjoint, selon le cas.

Pouvoir du commissaire de rendre des ordonnances

16. (1) Après avoir effectué un examen, le commissaire peut :

a) par ordonnance, annuler une décision prise, une recommandation donnée ou une mesure prise, lors d'une réunion qui n'était pas conforme aux exigences de la présente loi, par un organisme public désigné dont il a examiné les activités;

b) par ordonnance, enjoindre à un organisme public désigné dont il a examiné les activités de s'acquitter d'une obligation imposée par la présente loi;

c) par ordonnance, enjoindre à un organisme public désigné dont il a examiné les activités de modifier, de cesser ou de ne pas entreprendre une pratique relative aux questions relevant de la présente loi;

(d) make an order directing a designated public body whose activities the Commissioner reviewed to implement a practice specified by the Commissioner with respect to any matter within the scope of this Act if the Commissioner determines that the practice is reasonably necessary in order to achieve compliance with this Act.

Content of order

(2) The Commissioner shall include with any order made under subsection (1),

(a) written reasons for the order; and

(b) a notice with a statement that the designated public body affected by the order has the right to appeal described in section 17.

Copy of order

(3) On making an order, the Commissioner shall promptly provide copies of the order and reasons to,

(a) the complainant, if the Commissioner made the order following the review of a complaint made under subsection 10 (1);

(b) the designated public body whose activities the Commissioner reviewed; and

(c) any other person whom the Commissioner considers appropriate.

No order

(4) If, after conducting a review, the Commissioner does not make an order, the Commissioner shall give the complainant, if any, and the designated public body whose activities the Commissioner reviewed a notice that sets out the Commissioner's reasons for not making an order.

Appeal of order

17. (1) A designated public body affected by an order of the Commissioner made under subsection 16 (1) may appeal the order to the Divisional Court on a question of law in accordance with the rules of court by filing a notice of appeal within 30 days after receiving the copy of the order.

Certificate of Commissioner

(2) In an appeal under this section, the Commissioner shall certify to the Divisional Court,

(a) the order and a statement of the Commissioner's reasons for making the order;

(b) the record of all hearings that the Commissioner held in conducting the review on which the order is based;

(c) all written representations that the Commissioner received before making the order; and

(d) all other material that the Commissioner considers is relevant to the appeal.

d) par ordonnance, enjoindre à un organisme public désigné dont il a examiné les activités de mettre en oeuvre une pratique relative aux questions relevant de la présente loi qu'il précise si celle-ci est, selon lui, raisonnablement nécessaire pour assurer la conformité avec la présente loi.

Teneur de l'ordonnance

(2) Le commissaire inclut dans l'ordonnance qu'il rend en vertu du paragraphe (1) :

a) les motifs écrits de l'ordonnance;

b) un avis indiquant que l'organisme public désigné visé par l'ordonnance a le droit d'interjeter appel conformément à l'article 17.

Copie de l'ordonnance

(3) Lorsqu'il rend une ordonnance, le commissaire en remet promptement une copie, y compris les motifs de l'ordonnance, aux personnes et entités suivantes :

a) le plaignant, s'il a rendu l'ordonnance après avoir examiné une plainte en vertu du paragraphe 10 (1);

b) l'organisme public désigné dont il a examiné les activités;

c) toute autre personne qu'il estime appropriée.

Aucune ordonnance

(4) S'il ne rend pas d'ordonnance après avoir effectué un examen, le commissaire donne au plaignant, le cas échéant, et à l'organisme public désigné dont il a examiné les activités un avis indiquant les motifs sur lesquels il s'est fondé pour ne pas rendre d'ordonnance.

Appel d'une ordonnance

17. (1) L'organisme public désigné visé par une ordonnance que rend le commissaire en vertu du paragraphe 16 (1) peut en interjeter appel devant la Cour divisionnaire sur une question de droit conformément aux règles de pratique en déposant un avis d'appel dans les 30 jours qui suivent la réception d'une copie de l'ordonnance.

Certificat du commissaire

(2) Dans le cadre d'un appel interjeté en vertu du présent article, le commissaire certifie ce qui suit à la Cour divisionnaire :

a) l'ordonnance et un énoncé des motifs sur lesquels il s'est fondé pour la rendre;

b) le dossier de toutes les audiences qu'il a tenues en effectuant l'examen sur lequel l'ordonnance est fondée;

c) toutes les observations écrites qu'il a reçues avant de rendre l'ordonnance;

d) tous les autres documents qu'il estime pertinents concernant l'appel.

Court order

(3) On hearing an appeal under this section, the court may, by order,

(a) direct the Commissioner to make the decisions and to do the acts that the Commissioner is authorized to do under this Act and that the court considers proper; and

(b) vary or set aside the Commissioner's order.

Enforcement of order

18. An order made by the Commissioner under this Act that has become final as a result of there being no further right of appeal may be filed with the Superior Court of Justice and on filing becomes and is enforceable as a judgment or order of the Superior Court of Justice to the same effect.

Further order of Commissioner

19. (1) After conducting a review under section 12 and making an order under subsection 16 (1), the Commissioner may rescind or vary the order or may make a further order if new facts relating to the subject-matter of the review come to the Commissioner's attention or if there is a material change in the circumstances relating to the subject-matter of the review.

Circumstances

(2) The Commissioner may exercise the powers described in subsection (1) even if the order that the Commissioner rescinds or varies has already been filed with the Superior Court of Justice under section 18.

Content of order, etc.

(3) Subsections 16 (2) and (3) and sections 17 and 18 apply, with necessary modifications, to a further order made under this section.

COMMISSIONER

Delegation

20. (1) The Commissioner may in writing delegate any of the Commissioner's powers, duties or functions under this Act, including the power to make orders, to the Assistant Commissioner or to an officer or employee of the Commissioner.

Subdelegation by Assistant Commissioner

(2) The Assistant Commissioner may in writing delegate any of the powers, duties or functions delegated to him or her under subsection (1) to any other officers or employees of the Commissioner, subject to the conditions and restrictions that the Assistant Commissioner specifies in the delegation.

Confidentiality

(3) The Commissioner, the Assistant Commissioner and persons acting on behalf of or under the direction of either of them shall not disclose any information that comes to their knowledge in the course of exercising their functions under this Act unless,

Ordonnance du tribunal

(3) Lorsqu'il entend un appel en vertu du présent article, le tribunal peut, par ordonnance :

a) enjoindre au commissaire de prendre les décisions et les mesures qu'il est autorisé à prendre en vertu de la présente loi et que le tribunal estime appropriées;

b) modifier ou annuler l'ordonnance du commissaire.

Exécution de l'ordonnance

18. L'ordonnance rendue par le commissaire en vertu de la présente loi et devenue définitive en raison de l'absence de tout droit d'appel additionnel peut être déposée auprès de la Cour supérieure de justice. Un tel dépôt lui confère le même caractère exécutoire qu'un jugement ou une ordonnance de ce tribunal.

Nouvelle ordonnance du commissaire

19. (1) Après avoir effectué un examen en vertu de l'article 12 et rendu une ordonnance en vertu du paragraphe 16 (1), le commissaire peut annuler ou modifier l'ordonnance ou en rendre une nouvelle s'il prend connaissance de nouveaux faits se rapportant à l'objet de l'examen ou s'il survient un changement important dans les circonstances entourant cet objet.

Circonstances

(2) Le commissaire peut exercer les pouvoirs visés au paragraphe (1) même si l'ordonnance que le commissaire annule ou modifie a été déposée auprès de la Cour supérieure de justice en vertu de l'article 18.

Teneur de l'ordonnance

(3) Les paragraphes 16 (2) et (3) et les articles 17 et 18 s'appliquent, avec les adaptations nécessaires, à toute nouvelle ordonnance rendue en vertu du présent article.

COMMISSAIRE

Délégation

20. (1) Le commissaire peut, par écrit, déléguer l'un ou l'autre des pouvoirs ou fonctions que lui attribue la présente loi, y compris le pouvoir de rendre des ordonnances, à un de ses fonctionnaires ou employés ou au commissaire adjoint.

Subdélégation par le commissaire adjoint

(2) Le commissaire adjoint peut, par écrit, déléguer l'un ou l'autre des pouvoirs ou fonctions qui lui ont été délégués en vertu du paragraphe (1) à d'autres fonctionnaires ou employés du commissaire, sous réserve des conditions et restrictions qu'il précise dans l'acte de délégation.

Confidentialité

(3) Le commissaire, le commissaire adjoint et les personnes qui agissent en leur nom ou selon leurs directives ne doivent pas divulguer les renseignements qui sont portés à leur connaissance dans l'exercice des fonctions que leur attribue la présente loi, sauf si, selon le cas :

(a) the disclosure is required for the purpose of exercising those functions;

(b) the Commissioner obtained the information under subsection 15 (6) and the disclosure is required in a prosecution for an offence under section 131 of the *Criminal Code* (Canada) in respect of sworn testimony; or

(c) the disclosure is made to the Attorney General, the information relates to the commission of an offence against an Act or an Act of Canada and the Commissioner is of the view that there is evidence of such an offence.

Information in review or proceeding

(4) The Commissioner in a review under section 12 and a court, tribunal or other person, including the Commissioner, in a proceeding shall take every reasonable precaution, including, when appropriate, receiving representations without notice and conducting hearings that are closed to the public, to avoid the disclosure of any information for which a designated public body would be entitled under subsection 5 (2) to exclude the public from a meeting.

Not compellable witness

(5) The Commissioner, the Assistant Commissioner and persons acting on behalf of or under the direction of either of them shall not be required to give evidence in a court or in a proceeding of a judicial nature concerning anything coming to their knowledge in the exercise of their functions under this Act that they are prohibited from disclosing under subsection (3).

Immunity

21. No action or other proceeding for damages may be instituted against the Commissioner, the Assistant Commissioner or any person acting on behalf of or under the direction of either of them for,

(a) anything done, reported or said in good faith and in the exercise or intended exercise of any of their powers or duties under this Act; or

(b) any alleged neglect or default in the exercise in good faith of any of their powers or duties under this Act.

OFFENCES

Offences

22. (1) A person is guilty of an offence if the person,

(a) wilfully obstructs the Commissioner or a person known to be acting under the authority of the Commissioner in the performance of his or her functions under this Act;

(b) wilfully makes a false statement to mislead or attempt to mislead the Commissioner or a person known to be acting under the authority of the Commissioner in the performance of his or her functions under this Act; or

a) la divulgation est exigée pour l'exercice de ces fonctions;

b) le commissaire a obtenu les renseignements en application du paragraphe 15 (6) et la divulgation est exigée dans une poursuite pour infraction à l'article 131 du *Code criminel* (Canada) à l'égard d'un témoignage sous serment;

c) la divulgation est faite au procureur général, les renseignements se rapportent à la commission d'une infraction à une loi ou à une loi du Canada et le commissaire est d'avis qu'il existe une preuve de l'infraction.

Renseignements : examen ou instance

(4) Le commissaire, dans un examen visé à l'article 12, et un tribunal judiciaire ou administratif ou une autre personne, notamment le commissaire, dans une instance, prennent toutes les précautions raisonnables afin d'éviter la divulgation de renseignements à l'égard desquels un organisme public désigné aurait le droit, en vertu du paragraphe 5 (2), de tenir une réunion à huis clos. Ces précautions peuvent comprendre, lorsque cela est approprié, la réception d'observations sans préavis et la tenue d'audiences à huis clos.

Témoins non contraignables

(5) Le commissaire, le commissaire adjoint et les personnes qui agissent en leur nom ou selon leurs directives ne sont pas tenus de témoigner devant un tribunal ou lors d'une instance de nature judiciaire relativement à ce qui est porté à leur connaissance dans l'exercice des fonctions que leur attribue la présente loi et qu'il leur est interdit de divulguer en application du paragraphe (3).

Immunité

21. Sont irrecevables les actions ou autres instances en dommages-intérêts introduites contre le commissaire, le commissaire adjoint ou les personnes qui agissent en leur nom ou selon leurs directives :

a) soit pour tout ce qui a été fait, relaté ou dit de bonne foi et dans l'exercice effectif ou censé tel des pouvoirs ou fonctions que leur attribue la présente loi;

b) soit pour toute négligence ou tout manquement qu'ils auraient commis dans l'exercice de bonne foi des pouvoirs ou fonctions que leur attribue la présente loi.

INFRACTIONS

Infractions

22. (1) Est coupable d'une infraction quiconque :

a) entrave volontairement le commissaire ou une personne que l'on sait agir sous son autorité dans l'exercice des fonctions que lui attribue la présente loi;

b) fait volontairement une fausse déclaration afin d'induire ou de tenter d'induire en erreur le commissaire ou une personne que l'on sait agir sous son autorité dans l'exercice des fonctions que lui attribue la présente loi;

(c) wilfully fails to comply with an order made by the Commissioner or a person known to be acting under the authority of the Commissioner under this Act.

Penalty

(2) A person who is guilty of an offence under subsection (1) is liable, on conviction, to a fine of not more than $2,500.

MISCELLANEOUS

Conflict

23. Subject to the regulations made under clause 24 (c), in the event of a conflict, this Act and its regulations prevail over any other Act or regulation, except to the extent that the other Act or regulation provides for greater openness of meetings or greater accessibility to minutes of meetings.

REGULATIONS

Regulations

24. The Lieutenant Governor in Council may make regulations,

(a) prescribing public bodies or types of public bodies as designated for the purposes of section 2;

(b) prescribing matters for the purposes of clause 5 (2) (g);

(c) providing for the resolution of a conflict between provisions in an Act or regulation other than as provided for by section 23.

Commencement

25. This Act comes into force on the day it receives Royal Assent.

Short title

26. The short title of this Act is the *Transparency in Public Matters Act, 2004*.

c) omet volontairement de se conformer à une ordonnance rendue par le commissaire ou par une personne que l'on sait agir sous son autorité en vertu de la présente loi.

Peine

(2) La personne qui est reconnue coupable d'une infraction prévue au paragraphe (1) est passible, sur déclaration de culpabilité, d'une amende d'au plus 2 500 $.

DISPOSITIONS DIVERSES

Incompatibilité

23. Sous réserve des règlements pris en application de l'alinéa 24 c), la présente loi et ses règlements d'application l'emportent sur toute disposition incompatible de toute autre loi ou de tout autre règlement, sauf dans la mesure où cette autre loi ou cet autre règlement prévoit une plus grande liberté d'accès aux réunions ou une plus grande accessibilité aux procès-verbaux de réunions.

RÈGLEMENTS

Règlements

24. Le lieutenant-gouverneur en conseil peut, par règlement :

a) prescrire des organismes publics ou des types d'organismes publics comme étant désignés pour l'application de l'article 2;

b) prescrire des questions pour l'application de l'alinéa 5 (2) g);

c) prévoir la résolution d'une incompatibilité entre les dispositions d'une loi ou d'un règlement qui soit différente de celle prévu à l'article 23.

Entrée en vigueur

25. La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Titre abrégé

26. Le titre abrégé de la présente loi est *Loi de 2004 sur la transparence des questions d'intérêt public*.

SCHEDULE 1

PART I

1. The following are designated public bodies for the purposes of this Act:

Item Number	Name of Designated Public Body	Legislative Basis for Designated Public Body
1.	Council of the Ontario College of Social Workers and Social Service Workers	Section 4 of the *Social Work and Social Service Work Act, 1998*
2.	Council of the Ontario College of Teachers	Section 4 of the *Ontario College of Teachers Act, 1996*
3.	Ontario Municipal Board	Section 4 of the *Ontario Municipal Board Act*

PART II

2. The following are types of designated public bodies for the purposes of this Act:

Item Number	Type of Designated Public Body
1.	The board of directors, governors, trustees or other governing body or authority of a university in Ontario and any affiliated or federated college of a university that receives operating grants from the Government of Ontario.
2.	The board of directors, governors, trustees, commission or other governing body or authority of a hospital to which the *Public Hospitals Act* applies.
3.	The board of governors of a college of applied arts and technology.
4.	A board of health as defined in section 1 of the *Health Protection and Promotion Act*.
5.	The council of the College of a health profession or group of health professions established or continued under a health profession Act.
6.	A commission as established under section 174 of the *Municipal Act, 2001*.
7.	A council of a municipality.
8.	A district school board or school authority as defined in section 1 of the *Education Act*.
9.	A local services board or an area services board established under the *Northern Services Boards Act*.
10.	A municipal police services board established under section 27 of the *Police Services Act*.
11.	A public library board, a union board, a county library board or a county library co-operative board established or continued under the *Public Libraries Act*.

ANNEXE 1

PARTIE I

1. Sont des organismes publics désignés pour l'application de la présente loi :

Numéro de poste	Nom de l'organisme public désigné	Disposition législative habilitante
1.	Le conseil de l'Ordre des travailleurs sociaux et des techniciens en travail social de l'Ontario	Article 4 de la *Loi de 1998 sur le travail social et les techniques de travail social*
2.	Le conseil de l'Ordre des enseignantes et des enseignants de l'Ontario	Article 4 de la *Loi de 1996 sur l'Ordre des enseignantes et des enseignants de l'Ontario*
3.	La Commission des affaires municipales de l'Ontario	Article 4 de la *Loi sur la Commission des affaires municipales de l'Ontario*

PARTIE II

2. Sont des types d'organismes publics désignés pour l'application de la présente loi :

Numéro de poste	Type d organisme public désigné
1.	Le conseil d'administration ou l'autre corps dirigeant d'une université ontarienne et de ses collèges affiliés et fédérés qui reçoivent des subventions de fonctionnement du gouvernement de l'Ontario.
2.	Le conseil d'administration, la commission ou l'autre corps dirigeant d'un hôpital auquel s'applique la *Loi sur les hôpitaux publics*.
3.	Le conseil d'administration d'un collège d'arts appliqués et de technologie.
4.	Un conseil de santé au sens de l'article 1 de la *Loi sur la protection et la promotion de la santé*.
5.	Le conseil d'un ordre d'une profession de la santé ou d'un groupe de professions de la santé, créé ou maintenu en vertu d'une loi sur une profession de la santé.
6.	Une commission créée en vertu de l'article 174 de la *Loi de 2001 sur les municipalités*.

Numéro de poste	Type d'organisme public désigné
7.	Le conseil d'une municipalité.
8.	Un conseil scolaire de district ou une administration scolaire au sens de l'article 1 de la *Loi sur l'éducation*.
9.	Une régie locale des services publics ou une régie régionale des services publics créée en vertu de la *Loi sur les régies des services publics du Nord*.
10.	Une commission municipale de services policiers créée en vertu de l'article 27 de la *Loi sur les services policiers*.
11.	Un conseil de bibliothèques publiques, un conseil uni, un conseil de bibliothèques de comté ou un conseil de coopérative de bibliothèques de comté créé ou maintenu en vertu de la *Loi sur les bibliothèques publiques*.

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